



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,246	09/24/2003	Darren Williams	5-5722-001	3531

803 7590 08/24/2005

STURM & FIX LLP
206 SIXTH AVENUE
SUITE 1213
DES MOINES, IA 50309-4076

EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
----------	--------------

3727

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

88

Office Action Summary	Application No.		Applicant(s)	
	10/669,246		WILLIAMS, DARREN	
	Examiner		Art Unit	
	Justin M. Larson		3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/24/03</u> <i>JML</i> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because reference numeral 10, mentioned in the specification, is not shown in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract

Art Unit: 3727

on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it is more than a single paragraph. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pencoske (6,237,825) in view of Silin (2,970,316) and Velasco, Jr. et al.

(6,278,372). Pencoske discloses a transport device (10) comprising a receptacle member (21) having a rear panel (12) and a front panel (20), the front panel at least partially comprising netting material (col. 2 line 56), and a securing unit including a plurality of straps (16 & 17) operatively associated with the upper portion of the rear panel of the receptacle member, but fails to disclose the securing unit utilizing clip members on the ends of the straps. Silin, however, teaches a transport device (24) with a securing unit that also includes a plurality of straps (28 & 30) dimensioned to extend from the upper portion of the receptacle member to a location proximate the front

pockets of an angler's shirt; the straps differing from those of Pencoske in that they connect directly to various locations on a user's apparel using a button with a button-receiving hole (col. 2 line 71). While Silin teaches the use of button-receiving holes rather than clips, Velasco, Jr. et al. teaches that when connecting an object to a person's clothing, one may use either a button-receiving hole or an alligator clip. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the transport device of Pencoske by using straps such as those taught by Silin, allowing the user to securely fasten the backpack directly to their clothing, and to use clips at the end of the straps in place of button-receiving holes, as taught by Velasco, Jr. et al. so that the straps could be connected to any location of clothing without needing preexisting buttons attached to the clothing.

Regarding the limitation set forth in claim 1 that requires the rear panel of the receptacle member to be fabricated from a waterproof material, Official Notice is taken to the fact that it is old and well known in the art to construct various panels of backpacks out of nylon, a waterproof material, or other similar material.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Pencoske, Silin, and Velasco Jr., et al. which is capable of being used in the intended manner, i.e., for transporting landing nets. There is no structure in Pencoske, Silin, and Velasco Jr., et al. that would prohibit such functional intended use (see MPEP 2111).

6. Claims 2, 4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pencoske in view of Silin and Velasco Jr. et al., and further in view of Ekman et al. (4,764,962). The art as applied above in paragraph 5 discloses the claimed invention except for at least one strap/clip member being operatively associated with the lower portion of the receptacle member. Ekman et al., however, teaches a transport device that is connected to a user's clothing using strap/clip members (22 & 24) operatively associated with both the upper and lower portions of the receptacle member (18), securing the transport device to the user's belt or pants (figure 1). Therefor, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the transport device of Pencoske, Silin, and Velasco Jr. et al. by including a strap/clip member operatively associated with the lower portion of the transport device in order to anchor the lower portion to the user's belt or pants and keep the device from flopping around on the user's back which may cause discomfort or annoyance.

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pencoske, Silin, Velasco Jr. et al. in view of Ekman et al., and further in view of Stair (1,626,166). The art as applied above in paragraph 6 discloses the claimed invention except for at least one more additional strap element extending from the upper portion of the receptacle member. Stair, however, teaches an article (8) connected to a user's clothing by two straps (6) with button-receiving holes and also uses a third strap element (12) that utilizes a button-receiving hole to adjust the height at which the article is supported on the user's back. Therefor, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to modify the device of the art as applied above in paragraph 6 by including an additional strap element at the top portion of the receptacle member, as taught by Stair, and to replace the button-receiving hole taught by Stair with an alligator clip, as taught by Velasco, Jr. et al., so that the user may adjust the height at which the transport device is supported on their back without the need to have preexisting buttons at various heights on the back of their clothing. The use of the alligator clip would also allow the user to secure this additional strap element to the collar of their shirt if they so desired.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art relates to landing net carriers and other articles attached to clothing using strap/clip elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on M-Th 6-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NATHAN J. NEWHOUSE
PRIMARY EXAMINER